

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

KEVIN ALMY,)	
)	
Plaintiff,)	2:12-cv-00129-HDM-VCF
)	
vs.)	
)	MINUTES OF COURT
D. DAVIS, et al.,)	
)	
Defendants.)	December 8, 2014
	/	

PROCEEDINGS: JURY TRIAL - DAY ONE

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Margaret Griener

At 8:38 a.m., the Court convenes.

The Pro Se Plaintiff is present in custody.

Micheline Fairbank and Benjamin Johnson are present with Defendants Eric Francher, Pamela Feil, Brandt Halling, James Keener, Veronica Meza, Terry Nelsen, and Ruben Vidaurri.

Privacy screens are in place at both counsel tables.

The Court presents preliminary statements to the parties.

The Court addresses the Defendants' [390] Motions in Limine. **As recited, IT IS ORDERED, [390] Motions in Limine are GRANTED In Part, DENIED In Part, and RESERVED In Part.**

The Court addresses the Plaintiff's [402] Motions in Limine. **As recited, IT IS ORDERED, [402] Motions in Limine are GRANTED In Part, DENIED In Part, and RESERVED In Part.**

IT IS ORDERED, the rule of exclusion is invoked.

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The Court describes the anticipated trial progression, the procedure for video witnesses, and the voir dire process.

The Plaintiff requests certain clarifications and the Court responds. The parties further confer regarding the Plaintiff's witnesses.

At 9:02 a.m., 29 prospective jurors enter the courtroom.

The Court recites preliminary comments to the prospective jurors.

At 9:08 a.m., the voir dire oath is administered.

The Court introduces the parties, describes the nature of the case and the Plaintiff's claims, and identifies the parties' anticipated witnesses.

The jury is passed for cause and the parties exercise their peremptory challenges.

Eight jurors are empaneled and sworn. The Court thanks and excuses the remaining jurors for a period of two years.

At 10:03 a.m., the jury is admonished and excused. The Court stands at recess.

At 10:28 a.m., the jury enters the courtroom with all parties present.

The Plaintiff presents opening statements.

Ms. Fairbank presents opening statements on behalf of the Defendants.

KEVIN ALMY, called on behalf of the Plaintiff, is sworn, testifies on direct in the narrative form, and is released subject to recall.

The Plaintiff's Exhibits 61, 13, 24, 79 (page 14), 25 (page 64), and 35 are received into evidence.

At 12:00 p.m., the jury is admonished and excused until 1:00 p.m. this date. The Court stands at recess.

At 12:58 p.m., the Court reconvenes outside the presence of the jury.

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At 1:03 p.m., the jury enters the courtroom with all parties present.

GARY WINKLER, called on behalf of the Plaintiff and testifying via video conferencing from High Desert State Prison, is sworn, examined on direct by the Plaintiff, and excused.

KEVIN ALMY, resumes testimony on direct in the narrative form and is released subject to recall.

The Plaintiff's Exhibit 81 is received into evidence.

DONALD PICARD, called on behalf of the Plaintiff and testifying via video conferencing from Warm Springs Correctional Center, is sworn, examined on direct by the Plaintiff, and excused.

KEVIN ALMY, resumes testimony on direct in the narrative form and is released subject to recall.

The Defendants' Exhibit 537 is received into evidence.

DAVID SHELTON, called on behalf of the Plaintiff and testifying via video conferencing from Lovelock Correctional Center, is sworn, examined on direct by the Plaintiff, and excused.

DWAYNE JOSEPH CLARK, called on behalf of the Plaintiff and testifying via video conferencing from Lovelock Correctional Center, is sworn, examined on direct by the Plaintiff, examined by the Court, and excused.

LARRY EUGENE SMITH, called on behalf of the Plaintiff and testifying via video conferencing from Lovelock Correctional Center, is sworn, examined on direct by the Plaintiff, and excused.

At 2:19 p.m., the jury is admonished and excused. The Court stands at recess.

At 2:37 p.m., the Court reconvenes with the jury and all parties present.

KEVIN ALMY, resumes testimony on direct in the narrative form and is released subject to recall.

The Plaintiff's Exhibit 60 is received into evidence.

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The Defendants' Exhibit 550 is received into evidence.

BILLY ATKINS, called on behalf of the Plaintiff and testifying via video conferencing from Northern Nevada Correctional Center, is sworn, examined on direct by the Plaintiff, and excused.

STEVEN HAAG, called on behalf of the Plaintiff and testifying via video conferencing from Northern Nevada Correctional Center, is sworn, examined on direct by the Plaintiff, and excused.

KEVIN ALMY, resumes testimony on direct in the narrative form, is cross-examined by Ms. Fairbank, testifies on redirect in the narrative form, and is excused.

The Plaintiff's Exhibit 25 (all remaining pages) is received into evidence.

The Plaintiff rests.

At 4:08 p.m., the jury is admonished and excused until 8:30 a.m. on Tuesday, December 9, 2014.

Outside the presence of the jury, Ms. Fairbank recites the Defendants' motion for a directed verdict and presents argument. The Plaintiff presents argument. **IT IS ORDERED, the Court RESERVES.**

IT IS ORDERED, Jury Trial (Day Two) is set for Tuesday, December 9, 2014 at 8:15 a.m. in Reno Courtroom 4 before Judge Howard D. McKibben.

At 4:21 p.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk